

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7499

BILL NUMBER: HB 1545

NOTE PREPARED: Jan 8, 2005

BILL AMENDED:

SUBJECT: Securitization of Tobacco Settlement Payments.

FIRST AUTHOR: Rep. Espich

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill establishes the Tobacco Settlement Corporation. It permits the Corporation to purchase up to 50% of the state's right to receive payments under the Tobacco Master Settlement Agreement and to issue bonds payable from those payments. The bill provides for distribution of the bond proceeds, subject to appropriation by the General Assembly, to school corporations, state universities, and local units of government to reverse the effects of reductions of various distributions and appropriations in the 2001 budget.

Effective Date: Upon passage.

Summary of Net State Impact: *Securitization Proceeds:* This bill provides for the sale of the state's anticipated Tobacco Master Settlement Agreement income stream to the Tobacco Settlement Corporation. The Corporation would securitize any portion up to 50% of the income through the sale of bonds at a discount for a lump sum payment. The securitization of 50% of the revenue stream is estimated to raise between \$620 M to \$660 M in net proceeds in FY 2006. The amount of income to be securitized and the resulting lump sum payments would be dependent upon administrative decisions and market conditions. Proceeds from the sale of bonds not needed for the expenses of the Corporation, the issuance of bonds, and debt service would be deposited in the Tobacco Securitization Endowment Fund to be administered by the State Budget Agency.

Distribution of Proceeds: The bill establishes maximum distributions of the securitization proceeds, subject to appropriation by the General Assembly, at no greater than 1/12 of the distributions for tuition support; no greater than 1/12 of the appropriations to state universities, the Indiana Higher Education Telecommunications System, and the Commission for Higher Education; and no greater than 16.6% of the distribution from the

Property Tax Replacement Fund to local units of government. The maximum distribution permitted by the bill and subject to appropriation by the General Assembly is estimated to be about \$762 M.

Tobacco Settlement Corporation: The bill establishes the Tobacco Settlement Corporation as a public body corporate and politic, separate from the state. The Board of Directors is to consist of the Governor, the Lieutenant Governor, the Treasurer, or their designees, and four members appointed by the Governor. The Governor serves as the chairperson, and the Lieutenant Governor serves as the vice-chairperson of the Corporation. The Corporation may employ independent counsel, bond counsel, financial advisors, investment bankers, auditors and other technical or professional assistants, agents, and employees. Employees of the Corporation are not employees of the state.

Explanation of State Expenditures: *Distribution of Proceeds:* The bill specifies that the proceeds from the sale of the bonds are subject to appropriation by the General Assembly with transfers being made to the state General Fund for the following two purposes: (1) an amount equal to one-twelfth of the distributions for Tuition Support; and (2) an amount equal to one-twelfth of the appropriations to the 7 state universities and other entities for university operating expenses. The bill also would allow transfers of net bond revenue to the Property Tax Replacement Fund in an amount equal to 16.6% of the total amount scheduled to be distributed to county treasurers. The transfers, subject to the appropriations are to be made in the calendar year or fiscal year respectively, in which the proceeds of the bonds are received. As a point of reference, if the bonds were sold in the spring of 2005, the amounts appropriated for distribution in 2005 would be as follows: (1) CY 2005, Tuition Support, \$310,221,588; (2) FY 2005, Higher Education, \$102,113,735; and (3) CY 2005, Property Tax Replacement Fund, \$349,289,912. The total of these appropriations would be dependent upon actions taken by the General Assembly, but in terms of 2005 dollars, \$761,486,980 may be addressed by the bill. The provisions of the bill are effective upon passage. The FY 2005 Tobacco Master Settlement payment receipt is expected April 10, 2005, potentially after the effective date of the bill. For the purposes of this analysis, it is assumed that the securitization would not include the sale of the state's interest in the FY 2005 revenue.

Background: The Auditor's year-end general ledger identified the June 30, 2004, balance of the Tobacco Master Settlement Agreement Fund to be \$238.1 M. Of that amount, the Budget Agency identified a total of \$46.5 M in "carryover" funds from the FY 2004 appropriations. The balance of money in the Fund that would be available for the FY 2006 and FY 2007 appropriations is dependent upon how the Budget Agency allots the FY 2005 appropriations. If the allotment is for less than the full FY 2005 appropriation for those accounts with "carryover" dollars; requiring the expenditure of the "carryover" first, then the actual expenditures for FY 2005 would be less than the total appropriation, and the ending balance available for expenditure in FY 2006 becomes larger. The Fund balance, estimated revenue for FY 2005 only (assuming 50% securitization in FY 2006), appropriations made in P.L. 274-2003, the amounts estimated to be available for appropriations in FY 2006 and FY 2007, and the estimated ending balances are provided in the following table.

Tobacco Master Settlement Agreement Fund	FY 2005	FY 2006	FY 2007
Beginning Balance, July 1	\$ 238.1 M	\$ 150.6 M	\$ 74.8 M
*Plus: Estimated Revenue, April 10 ('06 & '07 = after securitization)	\$ 132.4 M	\$ 67.2 M	\$ 68.2 M
Less: Appropriations ('05) or estimated \$ available ('06 & '07)	\$ 173.4 M	\$ 143.0 M	\$ 143.0 M
Less: Prior Year Carryover Appropriations	\$ 46.5 M	0	0
Ending Balance, June 30	\$ 150.6 M	\$ 74.8 M	0
* Estimated revenue includes the additional \$ known to be associated with the Vibo entry to Master Settlement Agreement.			

Explanation of State Revenues: *Sale of Revenue Stream:* The bill establishes the Tobacco Securitization Endowment Fund to receive bond proceeds from the securitization of a portion (up to 50%) of the Tobacco Master Settlement Agreement revenue. Net bond revenue is to be deposited in the Securitization Endowment Fund by the Tobacco Settlement Corporation. The Fund is to be held by the State Treasurer and administered by the State Budget Agency. Interest earnings from any investments of the Fund accrue to the Fund. Money in the Fund is nonreverting and subject to appropriation as specified in the bill. Any balance of funds remaining in the fund after the appropriations made in the bill are subject to appropriation by the General Assembly. The securitization of 50% of the revenue stream is estimated to raise between \$620 M to \$660 M in net proceeds in FY 2006.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: State Budget Agency; Treasurer's Office; State Universities; and the Indiana Commission on Higher Education.

Local Agencies Affected: Local school corporations and local units of Government.

Information Sources: Auditor's General Ledger, Year-End Balance, June 30, 2003; Dhiann Kinsworthy, State Budget Agency, 317-232-7221; Indiana Public Finance Office, 317-233-4334.

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